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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Ruben Plaza-Uzeta, No. CV-22-00789-PHX-GMS (ASB)
10 Petitioner, (No. CR-05-00225-2-GMS)
11 v. **ORDER**
12 United States of America,
13 Respondent.
14

15 Before the Court are Petitioner's Second Amended Motion Under 28 U.S.C. § 2255
16 to Vacate, Set Aside or Correct Sentence by Person in Federal Custody (Doc. 25), United
17 States Magistrate Judge Bachus's Report and Recommendation (Doc. 34), Petitioner's
18 Objections to the Report and Recommendation (Doc. 35), and the United States' Response
19 to Movant's Objection to the Report and Recommendation (Doc.36).

20 The Court has considered Petitioner's objections, the United States' Response to
21 Petitioner's Objections and reviewed the Report and Recommendation *de novo*. *See* Fed.
22 R. Civ. P. 72(b); 28 U.S.C. § 636(b)(1) (stating that the Court must make a *de novo*
23 determination of those portions of the Report and Recommendation to which specific
24 objections are made). The Court accepts the magistrate judge's recommended disposition
25 within the meaning of Rule 72(b), Fed. R. Civ. P., and overrules Petitioner's objections.
26 *See* 28 U.S.C. § 636(b)(1) (stating that the district court "may accept, reject, or modify, in
27 whole or in part, the findings or recommendations made by the magistrate"). As the R&R
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1 notes a “federal sentence cannot begin before the defendant has been sentenced in federal
2 court.” *Schleining v. Thomas*, 642 F.3d 1242, 1244 (9th Cir. 2011).

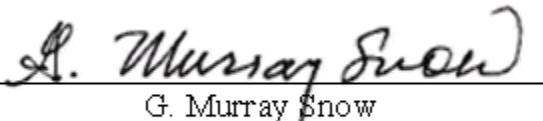
3 **IT IS ORDERED** that the Report and Recommendation of Magistrate Judge
4 Bachus (Doc. 34) to deny and dismiss Petitioner’s Second Amended Motion under 28
5 U.S.C. § 2255 is accepted.

6 **IT IS FURTHER ORDERED** that Petitioner’s Second Amended Motion Under
7 28 U.S.C. § 2255 to Vacate, Set Aside or Correct Sentence by Person in Federal Custody
8 (Doc. 25) is denied and dismissed.

9 **IT IS FURTHER ORDERED** that the Clerk of the Court shall enter judgment
10 accordingly and terminate this action.

11 Having considered the issuance of a Certificate of Appealability from the order
12 denying Petitioner’s Second Amended Motion Under 28 U.S.C. § 2255 to Vacate, Set
13 Aside or Correct Sentence by Person in Federal Custody, the Certificate of Appealability
14 is **DENIED**. Petitioner has not made a substantial showing of the denial of a constitutional
15 right. *See* Rule 11(a), Rules Governing Section 2255 Cases in the United States District
16 Courts; 28 U.S.C. § 2253(c)(3).

17 Dated this 24th day of January, 2024.

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19 G. Murray Snow
20 Chief United States District Judge

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